

# Disciplinary Actions

## Disciplinary Actions Reported For October

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of September 25, 2000.

### Firms Fined, Individuals Sanctioned

**Capital Alliance Investments, Inc., n.k.a. JRL Capital Corporation (CRD #10225, Irvine, California), Dennis Raymond Konczal (CRD #1045392, Registered Principal, Mill Valley, California) and Larry Richard Law (CRD #1273118, Registered Principal, Newport Beach, California)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$50,000, jointly and severally, and the firm was ordered to offer rescission to investors. In addition, Konczal was suspended from association with any NASD member in any principal or supervisory capacity for one year. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Konczal and Law, participated in contingency offerings of securities and failed to transmit investor funds raised in the offerings to a proper escrow account. Furthermore, the NASD found that the firm, acting through Konczal and Law, withdrew investor funds from the bank account into which they were deposited before the minimum offering amount was raised and failed to reimburse investor funds

when the minimum contingency amount for the offerings was not raised.

Konczal's suspension began September 5, 2000, and will conclude at the close of business on September 4, 2001. **(NASD Case #C02000045)**

**Network Capital Corporation (CRD #1389, Salt Lake City, Utah), David Leland Sagers (CRD #1013621, Registered Principal, Sandy, Utah) and Richard Leroy Parker (CRD #356740, Registered Principal, Salt Lake City, Utah)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. In addition, the firm and Sagers were fined \$5,000, jointly and severally, and Sagers was suspended from association with any NASD member in the capacity of a financial and operations principal for five business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Sagers and Parker, conducted a securities business while failing to maintain the required minimum net capital. The findings also stated that the firm, acting through Sagers, filed FOCUS Part II Reports with the NASD that materially misstated the firm's net capital.

Sagers' suspension began September 18, 2000, and concluded at the close of business on September 22, 2000. **(NASD Case #C3A000029)**

### Firms And Individuals Fined

**American Investment Services, Inc. (CRD #21111, East Peoria, Illinois) and Jeffrey Joseph Hiser (CRD #2750883, Registered**

**Principal, Perkin, Illinois)**

submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally; the firm was fined an additional \$7,500, jointly and severally, with an individual. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Hiser, effected transactions in securities when it failed to maintain its minimum required net capital. The findings also stated that the firm, acting through Hiser, prepared inaccurate trial balances and net capital computations, and filed an inaccurate FOCUS Part IIA Report with the NASD. Furthermore, the NASD found that the firm failed to report statistical and summary information relating to customer complaints to the NASD. **(NASD Case #C8A000043)**

**J.P.R. Capital Corporation (CRD #38056, Roslyn, New York) and Paul Jeffrey Umansky (CRD #1615489, Registered Principal, Rockville Centre, New York)**

submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. The firm was also required to disgorge \$3,826.50 to the NASD. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Umansky, failed to file statistical and summary information regarding customer complaints with the NASD in a timely manner. The findings also stated that the firm, acting through Umansky, permitted an individual associated with the firm to act in a capacity that required registration while his registration was inactive due to his failure to complete the Regulatory Element of the NASD's Continuing

Education Requirement. In addition, the NASD found that the firm, acting through Umansky, failed to conduct a training needs analysis and to prepare a written training plan as required by the Firm Element of the NASD's Continuing Education Requirement. **(NASD Case #C10000150)**

**M G Securities Group, Inc. (CRD #42991, Dallas, Texas) and Michael Paul Anderson (CRD #1625289, Registered Principal, Richardson, Texas)**

submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$13,000, jointly and severally, including a disgorgement of \$9,000 in commissions. The firm was fined an additional \$1,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Anderson, permitted an unregistered individual to serve as a general securities representative and thereby engage in the investment banking or securities business of the firm. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures that were reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules, in that the firm's procedures failed to adequately address NASD rules governing registration of personnel. **(NASD Case #C06000016)**

**Ryan, Beck & Co., Inc. (CRD #3248, Livingston, New Jersey) and Leonard J. Stanley (CRD #2564540, Registered Principal, Pompton Lakes, New Jersey)**

submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,500, jointly and severally. The firm was fined an additional \$14,500. Without

admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Stanley, maintained an insufficient balance in its special reserve bank account for the exclusive benefit of customers and made withdrawals from the account without making concurrent calculations to determine that necessary funds were on deposit as required by the SEC. The findings also stated that the firm, acting through Stanley, failed to make and keep current a ledger reflecting funds it owed to customers in connection with municipal bond coupons; the firm also failed to make and keep current ledger accounts itemizing separately for each customer account, receipts and deliveries of municipal bond coupons as well as credits to such customer accounts. In addition, the NASD found that the firm, acting through Stanley, failed to maintain sufficient net capital while conducting a securities business. Moreover, the firm failed to execute customer limit orders in Nasdaq<sup>®</sup> securities contemporaneously after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. The NASD also found that the firm failed to display customer limit orders in Nasdaq securities in its public quotation when each order was at a price that would have improved the firm's bid or offer in each security and failed to update the size of a limit order in a Nasdaq security that represented the firm's best offer for that security. Further, the findings stated that the firm failed to exclude either the markup or markdown from the reported price for principal transactions in The Nasdaq SmallCap Market<sup>SM</sup> securities reported to Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>). In

addition, the firm, while acting as principal, failed to disclose the markup/markdown and/or reported trade price on customer confirmations and failed to accept or decline trades within 20 minutes of execution in its capacity as an ACT order entry firm. **(NASD Case #C10000154)**

### **Firms Fined**

**Carlin Equities Corp. (CRD #31295, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed customer short-sale orders in securities and failed to annotate an affirmative determination for each of these orders. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonable designed to achieve compliance with the applicable short-sale rules of the NASD. **(NASD Case #CMS000180)**

**Centex Securities, Incorporated (CRD #18493, La Jolla, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders and thereby failed to honor its published quotation when presented to the firm at its published bid or published offer in an amount up to its published quotation size. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to

the applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS000171)**

**CIBC World Markets Corp. (CRD #630, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$26,000, and ordered to pay \$4,259.25, plus interest, in restitution to investors. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously or partially execute customer limit orders in Nasdaq securities after the firm traded each security for its own market-making account at a price that would have satisfied each customer's limit order. The NASD also found that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such markets so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm executed short-sale orders in certain securities, failed to make an affirmative determination prior to executing transactions, and improperly reported transactions to ACT that it was not required to report. Furthermore, the findings stated that the firm failed to immediately display customer limit orders in Nasdaq securities in its public quotation when each order was at a price that would have improved the firm's bid or offer or when the order was priced equal to its bid or offer and the national bid or offer for each security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. **(NASD Case #CMS000183)**

**Comprehensive Capital Corp. (CRD #6215, Westbury, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it engaged in a pattern or practice of late transaction reporting without exceptional circumstances by failing to report last sale reports and transactions in ACT-eligible OTC equity, Nasdaq National Market® (NNM), and Nasdaq SmallCap securities to ACT within 90 seconds after execution, and failed to designate such transactions to ACT as late. **(NASD Case #CMS000156)**

**Fleet Securities, Inc. (CRD #13071, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$41,000, and required to revise its written supervisory procedures within 60 days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously or partially execute customer limit orders in Nasdaq securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order. The findings also stated that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. Furthermore, the NASD found that the firm failed to immediately display customer limit orders in Nasdaq securities in its public quotation when each order was at a price that would have improved the

firm's bid or offer in each security or when each order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. In addition, the NASD determined that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable NASD rules regarding best execution, ACT compliance, limit order protection, SEC order execution rules, trade reporting, Small Order Execution System<sup>SM</sup> (SOES<sup>SM</sup>), locked and crossed markets, books and records, and anti-competitive practices. **(NASD Case #CMS000189)**

**Herzog, Heine and Geduld (CRD #2186, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it improperly designated transactions in an NNM security as late to ACT and failed to preserve the memorandum of brokerage orders. **(NASD Case #CMS000191)**

**JW Genesis Clearing Corp. (CRD #6631, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report trades in Fixed Income Pricing System<sup>SM</sup> (FIPS<sup>®</sup>) listed securities to the NASD. The findings also stated that the firm failed to update its quotes

or send a SelectNet<sup>SM</sup> message within 30 seconds of the receipt of limit orders. The NASD also found that the firm failed to establish, maintain, and enforce adequate written supervisory procedures that were reasonably designed to achieve compliance with trade reporting obligations; ACT reporting requirements; FIPS reporting obligations; and SEC order handling rules, including the limit order display and quote rule.

**(NASD Case #C07000057)**

**Lehman Brothers, Inc. (CRD #7506, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$37,000, required to revise its written supervisory procedures, and ordered to pay \$2,131.25, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously, or partially, execute customer limit orders in Nasdaq securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order. The findings also stated that the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. In addition, the NASD determined that the firm failed to execute market orders fully and promptly, and failed to immediately display customer limit orders in Nasdaq securities in its public quotation when each order was at a price that would have improved the firm's bid or offer in each security or when the order was priced equal to the firm's bid or

offer and the national best bid or offer for each security and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. Furthermore, the NASD determined that the firm executed short-sale orders in certain securities and failed to make an affirmative determination prior to executing such transactions, and the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations. **(NASD Case #CMS000158)**

**Miller, Tabak, Hirsch & Company (CRD #10384, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it engaged in a pattern or practice of late transaction reporting without exceptional circumstances in that it failed to report transactions in FIPS within five minutes after execution. **(NASD Case #CMS000169)**

**Paragon Capital Corporation (CRD #18555, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$52,500, and ordered to pay \$93.75, plus interest, in restitution to investors. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously execute customer limit orders in Nasdaq securities after it traded each of the securities related to those orders for its own market-making account at a price that would have satisfied each

of those orders. The findings also stated that the firm failed to use reasonable diligence to ascertain the best prevailing inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. Furthermore, the findings stated that the firm failed to immediately display customer limit orders in Nasdaq securities in its public quotation when the orders were at a price that would have improved its bid or offer in each security related to those orders, or when the full size of the orders was priced equal to the firm's bid or offer and the national best bid or offer and the orders represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. In addition, the findings stated that the firm failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules regarding ACT compliance, annual review/internal audit, best execution, limit order handling—display and quote rules, registration of traders and supervisors, trade reporting, SOES (proprietary trading) and 21(a) Report issues. (NASD Case #CMS000192)

**Prudential Securities Incorporated (CRD #7471, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in Nasdaq securities in its public quotation when each order was at a price that would have

improved its bid or offer in each security, or when each order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a *de minimis* change in relation to the size associated with its bid or offer in each security. The findings also stated that the firm failed to transmit transactions in NNM, Nasdaq SmallCap, and OTC equity securities through ACT within 90 seconds after execution, and failed to designate such last sale reports as late to ACT. (NASD Case #CMS000194)

**Royal Alliance Associates, Inc. (CRD #23131, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and ordered to disgorge \$31,035.92 in commissions. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed individuals associated with the firm to act in the capacity of registered persons while their registrations with the NASD were inactive due to their failure to complete the Regulatory Element of NASD's Continuing Education Requirement. (NASD Case #C10000146)

**Sand Brothers & Co., Ltd. (CRD #26816, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported short-sale transactions to ACT without properly designating them as short sales by using the ".S" modifier. The findings also stated that the firm failed to reflect the customers'

limit price in the firm's quotations subject to the SEC order handling rules. (NASD Case #C10000162)

**Scott & Stringfellow, Inc. (CRD #6255, Richmond, Virginia)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$11,000, required to revise its written supervisory procedures relating to best execution within 60 days, and ordered to pay \$2,910.63, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning best execution. (NASD Case #CMS000181)

**Wheat First Union (CRD #6124, Richmond, Virginia)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$19,500, and required to revise its written supervisory procedures relating to order handling within 60 days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously execute protected customer limit orders after it traded each security for its own market-making account at a price that was equal to, or better than, each such customer limit order. The NASD also found that, in

connection with customer orders, the firm failed to use reasonable diligence to ascertain the best inter-dealer market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to immediately display customer limit orders when the orders were at a price that would have improved its bid or offer in each security related to those orders, or when the full size of the orders were priced equal to its bid or offer and the national best bid or offer and the orders represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. Furthermore, the NASD found that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and applicable NASD rules concerning the SEC order handling rules. (NASD Case #CMS000184)

## Individuals Barred Or Suspended

*For individuals who have been both barred and suspended, only the date that the bar became effective is included.*

**Richard Allen Adams (CRD #2733333, Registered Representative, Fort Worth, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Adams consented to the described sanction and to the entry of findings that he signed the names of public customers to Shareowner Services Reports without their authorization, knowledge, or consent, thereby

becoming the agent of record for the customers. Adams also failed to respond to NASD requests for information. (NASD Case #C06000019)

**Jose Ayala (CRD #3041101, Associated Person, Copiague, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for six months. Payment of the fine shall be a prerequisite for any application for reentry into the securities industry. Without admitting or denying the allegations, Ayala consented to the described sanctions and to the entry of findings that he willfully failed to disclose his criminal history on a Form U-4.

Ayala's suspension began September 18, 2000, and will conclude at the close of business on March 16, 2001. (NASD Case #C10000153)

**Jonathan Wan Bae (CRD #1796368, Registered Representative, Bellerose Terrace, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bae consented to the described sanction and to the entry of findings that he made improper use of customer checks totaling \$110,000. (NASD Case #C10000155)

**Matthew I. Balk (CRD #1302167, Registered Principal, New York, New York)** submitted an Offer of Settlement in which he was fined \$65,000, suspended from association with any NASD member in any capacity for 45 days, and suspended from

association with any NASD member as a general securities principal for 120 days. Without admitting or denying the allegations, Balk consented to the described sanctions and to the entry of findings that he engaged in a course of conduct that constituted, and which he knew or should have known would constitute, unfair dealings with customers. The NASD found that Balk induced customer purchases of a security for the benefit of his member firm when he knew that the transactions were unlikely to benefit the customers and were not in the customers' best interest. The findings also stated that Balk failed to disclose: (1) the special sales credits to the customers even though he knew, or should have known, that special sales credit was intended encourage the solicitations and that a reasonable investor would consider knowledge of the incentive compensation to be material; (2) the entire firm was engaged in a massive retail sales effort of the security; and (3) the recent poor performance of the stock and the company.

Balk's suspension in any capacity began October 2, 2000, and will conclude at the close of business on November 15, 2000. His suspension as a general securities principal also began on October 2, 2000, and will conclude on January 28, 2001. (NASD Case #C3A990071)

**James Smith Bancroft (CRD #1123153, Registered Principal, Los Angeles, California)** submitted an Offer of Settlement in which he was fined \$50,000 and suspended from association with any NASD member in any principal capacity for one year. The payment of the fine shall be a prerequisite for reentry into the securities industry. Without admitting or denying the

allegations, Bancroft consented to the described sanctions and to the entry of findings that, on behalf of a member firm, he participated as sole placement agent in a private offering of limited partnership interests, and that he either directly caused, was responsible for, or failed to prevent violations by his member firm of Section 15(c) of the Exchange Act and Rule 15c2-4. The findings also stated that a member firm, acting through Bancroft, participated in an all-or-none contingency offering, continued to receive investor funds, and failed to return investor funds when the terms of the contingency were not met.

Bancroft's suspension began October 2, 2000, and will conclude at the close of business on October 1, 2001. **(NASD Case #C02000004)**

**Darren Scott Bankston (CRD #2083711, Registered Representative, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Bankston consented to the described sanctions and to the entry of findings that he recommended to a public customer securities that were not suitable in view of the customer's age, financial situation, and investment objectives.

Bankston's suspension began August 28, 2000, and concluded at the close of business on September 1, 2000. **(NASD Case #C07000054)**

**Brenda Joyce Bell (CRD #3082032, Associated Person,**

**San Francisco, California)** submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bell consented to the described sanction and to the entry of findings that she submitted a Form U-4 in which she willfully misrepresented her background and failed to disclose material facts by falsely answering some questions. **(NASD Case #C01000007)**

**Erdem Bessim (CRD #2746643, Registered Representative, Thiells, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bessim consented to the described sanction and to the entry of findings that he converted customer cashier's checks totaling \$23,921.30 for his own use or benefit. The findings also stated that Bessim failed to respond to NASD requests for information. **(NASD Case #C10000105)**

**Michael Samuel Bifalco (CRD #1613705, Registered Principal, Middle Island, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$106,012.42 in restitution. Without admitting or denying the allegations, Bifalco consented to the described sanctions and to the entry of findings that he received cash and checks totaling \$106,012.42 from public customers and used the money for his personal benefit without the customers' authorization and contrary to their instructions. **(NASD Case #C10000157)**

**Gerard Arthur Boucher (CRD #1236064, Registered Principal, Corona Del Mar, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any principal capacity for 30 business days. Without admitting or denying the allegations, Boucher consented to the described sanctions and to the entry of findings that he failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with certain NASD rules regarding unauthorized trading.

Boucher's suspension began September 18, 2000, and will conclude at the close of business on October 27, 2000. **(NASD Case #C02000054)**

**Tiffany Nicole Bratton (CRD #3203225, Associated Person, Greensboro, North Carolina)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Bratton falsified copies of her test results for the Series 7, 63, and 65 exams. Bratton also failed to respond to an NASD request for information. **(NASD Case #C07000012)**

**Philip Miles Bresnahan (CRD #2741609, Registered Principal, Tampa, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bresnahan consented to the described sanction and to the entry of findings that he engaged in outside business activities without prior written notice to, or approval from, his member firm. The findings also stated that Bresnahan failed to

respond to NASD requests for information. **(NASD Case #C05000038)**

**Joe Burgio a.k.a Joseph Burgio (CRD #2746971, Registered Representative, Brooklyn, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Burgio failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C10000035)**

**Eric David Carson (CRD #2507789, Registered Representative, Chicago, Illinois)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Carson failed to respond to NASD requests for information. **(NASD Case #C8A000020)**

**James Marion Cates, Jr. (CRD #2010633, Registered Representative, Charlotte, North Carolina)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Cates failed to respond to NASD requests for information. **(NASD Case #C07000014)**

**Anthony Jorge Choquehuanca (CRD #1437629, Registered Representative, Laguna Niguel, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before reassociating with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Choquehuanca consented to the described sanctions and to the entry of findings that he effected

unauthorized transactions on behalf of individual pension plan participants by placing them in a variable annuity product that was not authorized by a pension plan agreement between a member firm and the employer of the participants.

Choquehuanca's suspension began October 2, 2000, and will conclude at the close of business on October 1, 2002. **(NASD Case #C02000053)**

**Michael Jason Constantinou (CRD #1140607, Registered Representative, Syosset, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Constantinou filed a false Form U-4 with the NASD when he became employed with a member firm. **(NASD Case #C10000040)**

**Damiano Salvatore Coraci (CRD #2289946, Registered Principal, Brooklyn, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. In light of Coraci's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Coraci consented to the described sanction and to the entry of findings that, in connection with its underwriting activities, a member firm, acting through Coraci, employed a device, scheme, contrivance, and/or artifice to defraud; made untrue statements of material facts and/or omitted to state material facts necessary to make statements not misleading; and engaged in acts, practices, or courses of business that operated as a fraud or deceit upon public investors.

The NASD found that Coraci, on behalf of a firm, engaged the firm's

registered representatives in a concentrated sales drive through the operation of a boiler room. The findings also stated that the firm, acting through Coraci, encouraged the firm's associated persons to utilize baseless price and performance predictions and other misleading statements in connection with solicitations of interest in an initial public offering (IPO). In addition, a member firm, acting through Coraci, reopened the IPO distribution while the firm acted as a market maker, entered bids in The Nasdaq Stock Market, Inc. on a continuous basis, and caused the purchase of warrants in the account of a customer while the securities were a "hot issue." The NASD also found that Coraci engaged in activities that required registration as a principal with the NASD even though he was not registered as such and permitted an associated person to act in a capacity that required registration even though the associated person was not registered as a representative. Moreover, the NASD found that Coraci failed to respond truthfully during an on-the-record interview and falsified information on new account forms prepared for a customer at member firms. **(NASD Case #C10000029)**

**Carl Cunzio (CRD #2664090, Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, Cunzio consented to the described sanctions and to the entry of findings that he recommended and effected excessive and unsuitable transactions in the account of a public customer.



Cunzio's suspension began September 5, 2000, and will conclude at the close of business on October 19, 2000. **(NASD Case #C07000051)**

**Dominick Joseph Dawson (CRD #2474364, Registered Representative, W. Babylon, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Dawson failed to respond to NASD requests for information. **(NASD Case #C9B000003)**

**Barry Michael Donald (CRD #2534882, Registered Representative, Morton, Illinois)** and **Mary Jane Johnson (CRD #1147428, Registered Principal, Groveland, Illinois)** submitted Offers of Settlement in which Donald was fined \$5,000 and suspended from association with any NASD member in any capacity for 90 days. Johnson was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Donald and Johnson consented to the described sanctions and to the entry of findings that they engaged in private securities transactions and failed to provide prior written notice to, or receive prior written authorization from, their member firm of their participation in such transactions.

Donald's suspension will begin on November 6, 2000, and will conclude at the close of business on February 2, 2001. Johnson's suspension will begin on October 16, 2000, and will conclude at the close of business on November 3, 2000. **(NASD Case #C8A000019)**

**Michael Patrick Dreitlein (CRD #1525680, Registered**

**Representative, Dix Hills, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dreitlein consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C10000149)**

**Michael James Dzurko (CRD #2340848, Registered Representative, Howard Beach, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Dzurko arranged for an impostor to take the Series 7 exam on his behalf. The findings also stated that Dzurko failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C10000063)**

**Valentin Fernandez (CRD #1965809, Registered Principal, Palm Beach Gardens, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Fernandez failed to respond to an NASD request for information. **(NASD Case #C07000019)**

**Philip James Flynn (CRD #1370914, Registered Principal, Plymouth, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to demonstrate that he has paid \$24,640 to the trustee in bankruptcy of a company prior to any request for relief from the bar. Without admitting or denying the allegations, Flynn consented to the described sanction and to the entry of findings that he engaged in

private securities transactions without prior written notification to, or approval from, his member firm. The findings also stated that Flynn effected securities transactions for the accounts of others without him, or the firm he operated, being registered as a broker/dealer. **(NASD Case #C3A000034)**

**Matthew Scott Freed (CRD #2788276, Registered Representative, Forest Hills, New York)** was fined \$10,000 and suspended from association with any NASD member in any capacity for one year for settling a customer complaint. Freed was also barred from association with any NASD member in any capacity for failure to respond. The fine is due and payable prior to reentry into the securities industry. The sanctions are based on findings that Freed paid a public customer \$850 to settle the customer's complaint against him without his member firm's knowledge and consent. Freed also failed to respond to NASD requests for information.

Freed's bar became effective August 16, 2000. **(NASD Case #C10000030)**

**Alan Lawrence Goldstein (CRD #2852203, Registered Representative, Huntington, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$17,500 and suspended from association with any NASD member in any capacity for three months. In addition, Goldstein must pay \$12,817.25, plus interest, in restitution to member firms. Without admitting or denying the allegations, Goldstein consented to the described sanctions and to the entry of findings that prior to his association with a member firm, he exercised discretionary trading authority over customer accounts and maintained

a securities account at a member firm and failed to notify, in writing, the executing firms of his association with a member firm, and failed to notify the member firm of the existence of such accounts. The findings also stated that Goldstein exercised discretionary trading authority over customer accounts without written authorization from the customers. Furthermore, the findings stated that Goldstein entered orders at prices that he knew would improve the national best bid or offer in such securities in that the full price and size of the orders would be reflected in the public quotation stream as the best prices and sizes at which a market participant was willing to buy or sell the securities. Moreover, the findings stated that after having entered such orders, Goldstein knowingly and intentionally entered, over the Internet and via the executing firms' touch-tone telephone systems, orders to buy and sell shares of securities on behalf of customers when he knew they would be routed to market makers whose execution systems were programmed to buy or sell securities on an automated basis at prices equal to the national best bid or offer. By knowing and intentionally engaging in this course of conduct, the NASD found that Goldstein bought and sold shares of securities at prices that were lower or higher than he would otherwise have been able to buy or sell shares of these securities, and within seconds after receiving the executions of the orders he had entered on behalf of these accounts, Goldstein canceled the priced limit orders that he had placed, thereby securing profits of approximately \$12,817.25.

Goldstein's suspension began October 2, 2000, and will conclude at the close of business on

December 29, 2000. **(NASD Case #CMS000131)**

**Vincent Grieco (CRD #1568462, Registered Principal, W. Islip, New York)** was fined \$500,000, barred from association with any NASD member in any capacity, and ordered to pay \$589,466.88, plus interest, in restitution to public customers. The sanctions were based on findings that Grieco directed a boiler room operation at the branch which he co-owned and enforced fraudulent sales practices, unauthorized transactions, and a refusal policy to effect customer sell orders. **(NASD Case #CAF990008)**

**Mark Lund Griffis (CRD #2767069, Registered Representative, West Palm Beach, Florida)** was fined \$7,500, barred from association with any NASD member in any capacity, and ordered to pay \$5,190, plus interest, in restitution to a public customer. The fine must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that Griffis effected unauthorized transactions in the account of a public customer and exercised discretion in the account of a public customer without written authority and without having the account approved as a discretionary account by his member firm. Griffis also failed to respond to an NASD request for information. **(NASD Case #C07000004)**

**Ann Aykanush Grigoryan (CRD #4029336, Associated Person, Glendale, California)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Grigoryan consented to the described sanction and to the

entry of findings that she submitted a Form U-4 to her member firm in which she falsely responded "no" to questions asking whether she had ever been charged with, or convicted of, a misdemeanor involving wrongful taking of property. **(NASD Case #C02000050)**

**William James Guy (CRD #2504429, Registered Representative, Columbia, Maryland)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for six months. In light of the financial status of the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, Guy consented to the described sanction and to the entry of findings that he engaged in securities transactions for compensation outside of the normal course or scope of his association with his member firm and failed to provide prior written notice of the transactions to his firm.

Guy's suspension began October 2, 2000, and will conclude April 1, 2001. **(NASD Case #C9A000019)**

**Ronald Victor Hatfield (CRD #1504641, Registered Representative, Philadelphia, Pennsylvania)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Hatfield failed to respond to NASD requests for information. **(NASD Case #C9A000010)**

**Clarence James Henderson (CRD #1001119, Registered Representative, Boone, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD

member in any capacity. Without admitting or denying the allegations, Henderson consented to the described sanction and to the entry of findings that he made improper use of funds belonging to a public customer. The findings also stated that Henderson failed to respond to an NASD request to provide documents and information. **(NASD Case #C07000060)**

**Alex Holloman, III (CRD #2910051, Registered Representative, Charlotte, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Holloman consented to the described sanction and to the entry of findings that he submitted check redemption request forms to his member firm on behalf of a public customer to withdraw funds from the customer's mutual fund account without the customer's authorization. The findings also stated that Holloman caused \$13,000 to be withdrawn from the customer's account and converted these funds to his own use and benefit without the customer's knowledge or consent. **(NASD Case #C05000047)**

**Lucas Allen Hutzell (CRD #2841394, Registered Representative, Greensburg, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hutzell consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C9A000030)**

**Douglass Keigley (CRD #1437162, Registered Representative, Adel, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000, which includes disgorgement of \$18,550 in commissions, and suspended from association with any NASD member in any capacity for one year. The fine and disgorgement must be paid before reassociating with a member firm following the suspension or before requesting relief from statutory disqualification. Without admitting or denying the allegations, Keigley consented to the described sanctions and to the entry of findings that he engaged in an outside business activity, and received compensation for his activity, without providing prompt written notice to his member firm.

Keigley's suspension began October 2, 2000, and will conclude at the close of business on October 1, 2001. **(NASD Case #C04000031)**

**Dennis Raphael Keruly (CRD #1027090, Registered Principal, Reistertown, Maryland)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Keruly consented to the described sanction and to the entry of findings that he failed to respond to an NASD request for information. **(NASD Case #C9A000032)**

**Richard Marvin Koch (CRD #1126316, Registered Representative, Fair Oaks Ranch, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Koch

consented to the described sanctions and to the entry of findings that he signed a public customer's name on insurance policy takeover request forms and submitted the forms to his member firm without the authorization of the customer.

Koch's suspension began October 2, 2000, and will conclude at the close of business on March 30, 2001. **(NASD Case #C06000018)**

**Charles Nicholas Letizia, Jr. (CRD #1902063, Registered Representative, Charlotte, North Carolina)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and order to pay \$10,000, plus interest, in restitution to a public customer. Proof of restitution, with interest, shall be a prerequisite to any application or request for relief from any statutory disqualification. Without admitting or denying the allegations, Letizia consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing notice to, or obtaining permission from, his member firm. Letizia also failed to respond to NASD requests for information. **(NASD Case #C07000005)**

**Dwight Alexander Longest (CRD #1913096, Registered Representative, New Albany, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Longest consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to provide prior written notice to, or obtain permission from,

his member firm to engage in private securities transactions. **(NASD Case #C8A000052)**

**Frank Joseph Maggio (CRD #2238463, Registered Representative, Lake Ronkonkoma, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Maggio persuaded a public customer to invest \$8,973 with him by representing that he would invest and manage her funds through his investment advisory business. Maggio misrepresented to the customer that his business was affiliated with a member firm; provided the customer with a false account number; sent the customer periodic statements showing the purported current market value of the stocks, when in fact, the stock was sold; and failed to transfer the customer's stock to an account the customer established at a member firm. Furthermore, despite his assurances to the customer that he would purchase the blue-chip stocks for the customer's benefit, Maggio purchased the shares in his name and held them for just a few months before selling them for \$8,700, without the customer's consent, and retained the proceeds of the sale for his own use. Maggio also failed to respond to NASD requests for information. **(NASD Case #C9B990034)**

**Martin Eugene Mangarelli, Jr. (CRD #318597, Registered Representative, Phoenix, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$6,000, suspended from association with any NASD member in any capacity for 18 months, and required to disgorge \$18,885. The fine must be paid and proof of disgorgement must be provided to the NASD prior to

reassociation with a member firm following the suspension or prior to any request for relief from statutory disqualification. Without admitting or denying the allegations, Mangarelli consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm of his intention to participate in the transactions.

Mangarelli's suspension began September 18, 2000, and will conclude March 17, 2002. **(NASD Case #C3A000031)**

**Calvin Walter Mathis (CRD #2997937, Registered Representative, Far Rockaway, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mathis consented to the described sanction and to the entry of findings that he failed to disclose on his Form U-4 that he had been charged and convicted under a general court martial order. The findings also stated that Mathis failed to respond to NASD requests for documents and a written statement regarding his failure to disclose on a Form U-4 his general court martial charge and conviction. **(NASD Case #C10000148)**

**Guy Ashley Neau (CRD #2232933, Registered Representative, Mauston, Wisconsin)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Neau consented to the described sanction and to the entry of findings that he participated in private securities transactions and

failed to provide written notice to, or obtain written authorization from, his member firm prior to engaging in such transactions. **(NASD Case #C8A000038)**

**Salvatore Joseph Pollina (CRD #2478289, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Pollina consented to the described sanctions and to the entry of findings that he participated in a securities transaction away from his member firm and failed to provide prior written notice to, or receive written approval from, his firm.

Pollina's suspension began September 18, 2000, and will conclude at the close of business on October 17, 2000. **(NASD Case #C10000156)**

**Raymond John Reifenrath, III (CRD #2751309, Registered Representative, South Sioux City, Nebraska)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Reifenrath consented to the described sanctions and to the entry of findings that he affixed the signatures of public customers on a health care waiver application without the customers' knowledge and consent.

Reifenrath's suspension began September 18, 2000, and will

conclude at the close of business on November 16, 2000. **(NASD Case #C04000030)**

**Benjamin Dennis Roberts (CRD #2013405, Registered Principal, Columbus, Georgia)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Roberts consented to the described sanction and to the entry of findings that he forged the initials of public customers on new account forms and submitted them to a member firm. Roberts also failed to respond to NASD requests for information. **(NASD Case #C07000042)**

**Joao Pedro Santos (CRD #2894841, Registered Representative, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Santos consented to the described sanction and to the entry of findings that he defrauded public customers by making unauthorized transfers of funds and securities from their accounts at his member firm to an account that he controlled and then converting the funds and securities for his own purposes. **(NASD Case #C9A000031)**

**Craig Patrick Scanlon (CRD #2201128, Registered Representative, Bratenahl, Ohio)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Scanlon failed to respond to NASD requests for information. **(NASD Case #C8B000004)**

**Timothy Martin Scannell (CRD #1552763, Registered Principal,**

**Valparaiso, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any principal or supervisory capacity for 30 days. Without admitting or denying the allegations, Scannell consented to the described sanctions and to the entry of findings that he caused a member firm's clearing firm to bulk transfer customer accounts from the member firm to a firm he owned and at which he was soon to become registered without authorization from the member firm or the account holders and contrary to the interests of the member firm.

Scannell's suspension began September 18, 2000, and will conclude at the close of business on October 17, 2000. **(NASD Case #C8A000048)**

**Karl Duane Scheumann (CRD #1582505, Registered Representative, Fort Wayne, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Scheumann consented to the described sanctions and to the entry of findings that he altered life insurance forms to indicate that policy premiums should be increased resulting in additional commissions to him totaling \$100.

Scheumann's suspension began October 2, 2000, and will conclude at the close of business on April 1, 2001. **(NASD Case #C8A000051)**

**Michael Robert Schiller (CRD #1531515, Registered**

**Representative, New York, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Schiller received an \$8,109.34 check from a public customer to purchase a variable annuity, failed to purchase the annuity, and converted the funds to his own use and benefit without the customer's knowledge or consent. **(NASD Case #C10000039)**

**Thomas Walter Schlenk (CRD #3090571, Registered Representative, Florissant, Missouri)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Schlenk failed to respond to NASD requests for information. **(NASD Case #C04000018)**

**Ivan Darnell Self (CRD #1982527, Registered Representative, Dallas, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Self failed to appear for on-the-record interviews. **(NASD Case #C06000007)**

**John Michael Thole (CRD #3176605, Registered Representative, Davenport, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Thole consented to the described sanctions and to the entry of findings that he affixed the signature of a public customer on a variable life insurance application without the customer's knowledge or consent.

Thole's suspension began October 2, 2000, and will conclude at the close of business on April 1, 2001. **(NASD Case #C8A000049)**

**David Dean Townsend (CRD #2163643, Registered Representative, Kent, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$29,443.84, which includes the disgorgement of commissions earned in the amount of \$14,443.84, and suspended from association with any NASD member in any capacity for two years. The fine must be paid before reassociating with a member firm following the suspension or before requesting relief from statutory disqualification. Without admitting or denying the allegations, Townsend consented to the described sanctions and to the entry of findings that he engaged in outside business transactions and failed to provide prior written notice to his member firm describing the proposed transactions, his proposed role, and his selling compensation.

Townsend's suspension began September 18, 2000, and will conclude at the close of business on September 17, 2002. **(NASD Case #C3B000014)**

**Scott Lynn Vanderbeek (CRD #2069603, Registered Representative, O'Neill, Nebraska)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$90,000, which includes disgorgement of commissions earned of \$86,000, and suspended from association with any NASD member in any capacity for one year. The fine and disgorgement must be paid either before reassociating with a member firm following the suspension or

before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Vanderbeek consented to the described sanctions and to the entry of findings that he engaged in an outside business activity without providing prompt written notice to his member firm.

Vanderbeek's suspension began September 18, 2000, and will conclude at the close of business on September 18, 2001. **(NASD Case #C04000029)**

**Alessandro Zaramella (CRD #1265864, Registered Representative, Balerna, Switzerland)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Zaramella falsified monthly customer account statements issued for a public customer. **(NASD Case #C05000009)**

### Decisions Issued

The following decisions have been issued by the District Business Conduct Committee (DBCC) or the Office of Hearing Officers and have been called for review by the National Adjudicatory Council (NAC) as of September 8, 2000. The findings and sanctions imposed in the decisions may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

**Freedom Investors Corp. (CRD #23714, Pewaukee, Wisconsin)** and **James Russell Fay (CRD #1003069, Registered Principal, Oconomowoc, Wisconsin)** were censured and fined \$30,000, jointly and severally. Fay was also

suspended from association with any NASD member in any principal capacity for 90 days and required to requalify by exam before serving in any principal capacity. The sanctions were based on findings that the firm, acting through Fay, conducted a securities business while failing to maintain the minimum required net capital, prepared inaccurate books and records, and prepared and filed inaccurate FOCUS Part IIA Reports. Also, the firm and Fay failed to submit timely responses to NASD requests for information.

The firm and Fay have appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C8A990071)**

**Protective Group Securities Corporation (CRD #6757, Minneapolis, Minnesota)** and **Michael Frederick Flannigan (CRD #1135700, Registered Principal, Excelsior, Minnesota)** were fined \$25,000, jointly and severally, and Flannigan was barred from association with any NASD member in any supervisory capacity. The sanctions were based on findings that the firm, acting through Flannigan, allowed unregistered individuals to engage in the firm's securities business, exercised discretionary authority for customer accounts in the aftermarket, and relied on information from a former member firm to execute transactions without obtaining written customer approval for such reliance.

The firm and Flannigan have appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C8A980097)**

## Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Ricardo Brown (CRD #845315, Registered Representative, Newport News, Virginia)** was named as a respondent in an NASD complaint alleging that he received insurance disbursement checks totaling \$8,510.82 sent by his member firm for delivery to insurance customers, forged the endorsements on the checks, and deposited them into his personal bank account. The complaint further alleges Brown completed and submitted to his member firm an unauthorized application for a \$12,000 withdrawal on behalf of a public customer, received a \$12,000 disbursement check from his member firm, forged the customer's endorsement on the check, and deposited it into his personal bank account. The complaint also alleges that Brown submitted loan applications on behalf of public customers without their authorization, received checks totaling \$10,500, forged the endorsements of the customers on the disbursement checks, and deposited them into his personal bank account. Furthermore, the complaint alleges that Brown failed to respond to NASD requests for information. **(NASD Case #C07000064)**

**Lawrence Dean Burke, Jr. (CRD #2255621, Registered Representative, Fresh Meadow, New York)** was named as a respondent in an NASD complaint alleging that he received \$3,000 from a public customer to arrange the sale of the customer's investment without providing prior written notice to, or receiving approval from, his member firm. The complaint also alleges that Burke failed to execute the sale of the customer's investment and deposited the customer's payment into his personal checking account, thereby converting and/or improperly using the funds. The complaint further alleges that Burke failed to respond to NASD requests for information. **(NASD Case #C10000160)**

**Joseph Carmello Cernera, Jr. (CRD #2652602, Registered Representative, Manalapan, New Jersey)** was named as a respondent in an NASD complaint alleging that he engaged in excessive and unauthorized trading in the accounts of public customers. The complaint also alleges that Cernera exercised discretion in the account of a public customer without prior written authorization from the customer or prior written approval from his member firm. In addition, the complaint alleges that Cernera willfully failed to disclose bankruptcy information on a Form U-4. **(NASD Case #C3A000033)**

**Marcial Fernando Chiong, Jr. (CRD #1548382, Registered Principal, New York, New York)** was named as a respondent in an NASD complaint alleging that he effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The complaint also alleges that Chiong failed to execute customer sell orders. **(NASD Case #C10000159)**

**Michael Ying Deng (CRD #2338954, Registered Representative, Flushing, New York)** was named as a respondent in an NASD complaint alleging that he converted, misappropriated, or improperly used a public customer's monies by depositing a \$1,000 insurance refund check into his personal bank account without the customer's knowledge, authorization, or consent. **(NASD Case #C10000152)**

**Michael DiFrancesca (CRD #2315616, Registered Representative, East Northport, New York)** was named as a respondent in an NASD complaint alleging that he engaged in, and/or induced others to engage in, fraudulent conduct that included unauthorized trading in public customer accounts; failed to disclose material facts that a prudent customer would have wanted disclosed and that DiFrancesca had a duty to disclose; and made specific price predictions about speculative securities without an adequate, accurate, or reasonable basis in fact. The complaint also alleges that DiFrancesca effected transactions in, or effected the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices and contrivances. **(NASD Case #CAF000038)**

**Nicholas John Kirk (CRD #2004783, Registered Representative, Rocklin, California)** was named as a respondent in an NASD complaint alleging that he made improper use of a public customer's funds by using the funds purportedly for start-up costs for a business totaling \$78,500 and, instead, used the funds for his personal use and benefit. Furthermore, the complaint alleges that Kirk failed to provide

the customer with any instrument documenting the duration and the terms of the loans, including the principal borrowed from the customer or the interest, if any, she would earn on that principal and Kirk knew or should have known that in taking the loans, he subjected the customer to the total loss of her principal. The complaint also alleges that Kirk failed to accurately and truthfully provide requested information to the NASD concerning his handling of loan proceeds, and amended a Form U-4 through which he made false and misleading representations. **(NASD Case #C02000055)**

**Kenneth Thomas Lambright (CRD #1124567, Registered Representative, Baltimore, Maryland)** was named as a respondent in an NASD complaint alleging that he guaranteed a public customer against loss and that he failed to respond to NASD requests for information and documentation. **(NASD Case #C9A000033)**

**Susan Jennifer Loetell (CRD #1372725, Registered Principal, Cockeysville, Maryland)** was named as a respondent in an NASD complaint alleging that she withdrew approximately \$41,000 from various proprietary accounts belonging to her member firm and converted these funds to her own use and benefit without the firm's knowledge or consent. The complaint also alleges that Loetell failed to respond to NASD requests for information and documentation and failed to appear for an NASD on-the-record interview. **(NASD Case #C9A000034)**

**Gregory Vincent Morgan (CRD #2334270, Registered Representative, Baldwin, New York)** was named as a respondent in an NASD complaint alleging that Morgan, while exercising control

over a customer's account, recommended, or implicitly recommended, numerous purchases and sale transactions in various securities without having reasonable grounds for believing that such transactions were suitable for the customer in view of the size and frequency of the transactions, the nature of the account, and the customer's financial situation and needs. The complaint further alleges that Morgan executed unauthorized transactions in a public customer's account without the customer's prior knowledge, authorization, or consent, and failed to respond to NASD requests for information. **(NASD Case #C9B000024)**

**Mark S. Pacelli (CRD #2344494, Registered Representative, Trenton, New Jersey)** was named as a respondent in an NASD complaint alleging that he solicited a public customer to invest approximately \$40,000 in bearer bonds and failed to invest the funds as instructed and, instead, used the funds for his own use. The complaint further alleges that Pacelli failed to respond to NASD requests for information. **(NASD Case #C07000063)**

**Vito Gerard Padulo (CRD #2370645, Registered Representative, Englishtown, New Jersey)** was named as a respondent in an NASD complaint alleging that he effected transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Padulo failed to respond to NASD requests for information. **(NASD Case #C10000166)**

**Cery Bradley Perle (CRD #2306492, Registered Principal, Corona Del Mar, California)** and

**Joseph Gaetano Gerace (CRD #1060223, Registered Principal, South Laguna, California)** were named as respondents in an NASD complaint alleging that a member firm, acting through Perle, received funds from public customers to purchase common stock when the registration statement for its IPO became effective in contravention of Section 5 of the Securities Act of 1933. In addition, the complaint alleges that Perle, acting on behalf of a member firm, participated as underwriter in an IPO of common stock that traded at a premium in the secondary market and failed to make a bona fide distribution of the stock at the public offering price when the secondary market began. The complaint also alleges that a member firm, acting through Gerace, effected transactions in securities while failing to maintain its minimum net capital. **(NASD Case #C01000020)**

**Ridgewood Associates, Inc. (CRD #16727, Paramus, New Jersey), Lewis Nathan Howard (CRD #251275, Registered Principal, Hawthorne, New Jersey) and Philip Patrick Marino (CRD #319926, Registered Principal, Paramus, New Jersey)** were named as respondents in an NASD complaint alleging that Howard, while exercising effective control over public customers' accounts, used discretion and recommended to the customers numerous purchases and sale transactions in various securities without having reasonable grounds for believing that such transactions were suitable for the customers in view of the size and frequency of the transactions, the nature of the accounts, and their financial situation and needs. The complaint also alleges that the firm, acting through Marino, failed to exercise its supervisory responsibilities and failed to supervise adequately and



properly Howard's trading activities in customers' accounts to ensure compliance with the securities laws and applicable NASD rules. The complaint further alleges that the firm, acting through Marino, failed to prevent transactions in the customers' accounts that were excessive in size or frequency in light of the financial resources and character of these accounts.

**(NASD Case #C9B000018)**

**Robert Jay Voges (CRD #2565539, Registered Representative, Ormond Beach, Florida)** was named as a respondent in an NASD complaint alleging that he received \$5,000 in cash from a public customer to be deposited into her checking account, failed to deposit the cash, and converted it to his own use and benefit. The complaint also alleges that Voges transferred \$5,000 from the customer's account at the firm to her checking account to conceal his actions and later transferred \$5,065 from his personal checking account to the customer's firm account to repay the funds he had converted. In addition, the complaint alleges that Voges failed to respond to NASD requests for information. **(NASD Case #C07000053)**

### **Firms Suspended**

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

**Century Capital Corp. of South Carolina**, Greenville, South Carolina (September 6, 2000)

**Phoenix Financial Services Corp.**, New York, New York (September 6, 2000)

**United Property Investments Corp.**, Phoenix, Arizona (August 14, 2000)

### **Suspensions Lifted**

The NASD has lifted the suspensions from membership on the date shown for the following firms because they have complied with formal written requests to submit financial information.

**American Investment Bankers, Inc.**, San Diego, California (August 24, 2000)

**Intra Network Securities, Inc.**, Rancho Santa Fe, California (August 17, 2000)

### **NASD Regulation Hearing Panel Expels Premier Capital Management and Fines and Suspends Firm President and Broker for Stock Touting and Fraudulent Advertising**

NASD Regulation announced that an NASD Regulation Hearing Panel expelled Premier Capital Management, Inc., Dallas, TX, for placing materially misleading advertisements in national publications to tout Continental Investment Corporation (OTCBB:CICGQ), failing to disclose compensation received from Continental, and other violations. The firm's president and owner, Bryan James O'Leary, was suspended for 325 days and fined \$62,500, while Ryan Mark Reynolds, a former registered representative, was suspended for 720 days and fined \$155,000. In addition, O'Leary and Reynolds were ordered to buy back shares from, or to make restitution to, customers who purchased Continental stock based on one of Premier's advertisements. O'Leary and Reynolds were also ordered to requalify and prove payment was made to customers prior to associating with a member firm. If they seek to reenter the industry, they will be subject to pre-use filing requirements for future proposed advertisements and other communications with the public.

The Hearing Panel found that O'Leary and Reynolds had placed a materially misleading eight-page insert advertisement touting Continental in the September 1997 issue of *Mutual Funds Magazine*. The advertisement, which purported to be a research report, was distributed to more than 625,000 individuals. In addition, single-page advertisements, which described Continental as "A Stock Whose Time Has Come," and

invited readers to contact Premier for a copy of "our research report," appeared in issues of *Town & Country*, *Individual Investor*, *Estates Internationale*, and *Leading Estates of the World*. Continental is a Dallas, TX corporation, which owned a large parcel of land near Atlanta, GA, which it believed had a possible future as a waste management facility.

The Hearing Panel found that the advertisement contained in *Mutual Funds Magazine* failed to provide an accurate and balanced picture of the risks and benefits of the investment, projected returns without a reasonable basis, and contained exaggerated claims. The following were among the fraudulent statements contained in the advertisement:

- "[U]nless Bill Gates or the Japanese dig a Grand Canyonesque hole 9 miles from downtown Atlanta, the value of [Continental's] property has no place to go but up."
- "Even if 99% of all stocks are dragged down with the overall

market, in our opinion, [Continental] will be an extremely profitable exception."

- "[W]e expect to see a tremendous upside 'run' in [Continental's] stock price all the way up to, at least, the mid-fifties."
- "Continental presents a 'textbook case' ... wherein a small company holding an insurmountable strategic advantage can potentially achieve complete predominance over significantly larger competitors."

In addition, the Hearing Panel found that Premier, O'Leary, and Reynolds failed to disclose the compensation they received from Continental for touting its stock. Premier received more than \$200,000 to cover the costs it incurred for printing and publishing the research report and the single-page advertisements. The Panel also found that Reynolds received 10,000 shares of Continental stock, then worth over \$200,000, as compensation for Reynolds's

services on behalf of Continental. Premier and O'Leary also failed to file the report with the NASD Regulation Advertising Regulation Department.

The NASD Regulation Enforcement Department wishes to acknowledge the assistance provided in this matter by the Securities and Exchange Commission's Fort Worth District Office, NASD Dallas District Office, and NASD Regulation Advertising Regulation.

Unless the matter is appealed to the NAC, or called for review by the NAC, the hearing panel's decision becomes final after 45 days. The sanctions imposed by the hearing panel are not effective during this period. If the decision is appealed or called for review, the sanctions may be increased, decreased, modified, or reversed. Each individual may choose to appeal the decision.

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